

**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON**

**LORI WAKEFIELD**, individually and  
on behalf of a class of others similarly  
situated,

Plaintiff,

v.

**VISALUS, INC.**,  
a Nevada corporation,

Defendant.

No. 3:15-cv-01857-SI

**Declaration of Simon Franzini in  
support of Plaintiffs' opposition to  
ViSalus' renewed motion for  
judgment as a matter of law and for  
a new trial**

I Simon Franzini, declare as follows:

1. I am a partner in the law firm Dovel & Luner, LLP, counsel for Plaintiff and the Class in this case. I am licensed to practice in the State of California and am admitted *pro hac vice* in this District. I have personal knowledge of the facts set forth this declaration and, if called as a witness, I would testify competently to them.

2. Attached as exhibits are true and correct copies of the trial exhibits cited in Plaintiffs' response to ViSalus' motion for JMOL and for a new trial, except for ones formats that the ECF system will not accept.<sup>1</sup> For ease of reference, the exhibits are numbered according to their trial exhibit number (rather than sequentially).

<b>Trial Exhibit Number</b>	<b>Description</b>
8	Promoter Application - July 2014 VIP
11	Promoter Application - July 2015 VIP
13	Promoter Application - November 2013 VIP
15	Promoter Application - 2010 VIP
17	Promoter Application - July 2012 VIP
19	Promoter Application - 2016 NEON
20	Promoter Application - 2016 US
22	Promoter Application - 2016 NEON US

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<sup>1</sup> Exhibit 38 (is a collection of over 400 very large native excel contact list excel spreadsheets. Exhibits 39 and 40 are very large contact list excel spreadsheets. Exhibits 43-7, 43-10, 43-11, 43-12, 43-13, 43-14, 43-15, 43-17, 43-19, 43-23, 43-24, 43-25, 43-28, 43-29, 43-32, 43-33, 43-34, 43-35 are audio recordings of ViSalus' prerecorded telemarketing messages. An electronic copy of each of these exhibits was submitted to the Clerk's Office in connection with trial.

24	Promoter Application - NEW
26	Promoter Application - 2012
27	Promoter Application - 2013
31 <sup>2</sup>	POM Campaign Tracker spreadsheet
32	ASR Campaign Tracker spreadsheet
34	Using Proactive Outreach Manager
35	How to Start a Campaign with the Correct Contact List
36A	Summary of call outcomes in call lists
37	Gidley Declaration
44	Outbound Processes
47	ViSalus Internal Email Chain re Better Business Bureau Complaint
50	POM Upload Instructions
62	Building a Contact List

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: October 15, 2020

Respectfully submitted,

By: /s/ Simon Franzini

Simon Franzini, Cal. Bar #287631  
(admitted *pro hac vice*)  
DOVEL & LUNER, LLP

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<sup>2</sup> Exhibits 31 and 32 are excel spreadsheets that were submitted in native format at trial. To facilitate their use by the parties on appeal, PDF versions are being submitted as exhibits to this declaration. Because these exhibits were originally submitted in native format, the PDF versions do not have exhibit stamps on their face.

simon@dovel.com  
201 Santa Monica Blvd., Suite 600  
Santa Monica, California 90401  
Tel: (310) 656-7066  
Fax: (310) 656-7069

*Attorney for Plaintiff Wakefield and the  
Certified Class*